

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

NORMAN W. HUGHES

PLAINTIFF

VS.

CIVIL ACTION NO. 2:05CV209-P-A

**PANOLA COUNTY, MISSISSIPPI
DAVID CHANDLER IN HIS
INDIVIDUAL CAPACITY**

DEFENDANTS

ORDER

This cause is before the Court on defendant Chandler's Motion for Summary Judgment [48] and Panola County's Motion for Summary Judgment [49]. The Court, having reviewed the motions, the responses, the briefs of the parties, the authorities cited and being otherwise fully advised in the premises, finds as follows, to-wit:

That there exist genuine issues of material fact with regard to plaintiff's First Amendment claims against defendants Chandler and Panola County and as relates to plaintiff's pendent state law claim for malicious interference with employment relations against defendant Chandler.

However, after reviewing the applicable statutes and interpretive decisions, the Court is of the considered opinion that Panola County is entitled to judgment as a matter of law with regard to plaintiff's state law claim of retaliatory discharge in violation of public policy due to plaintiff's failure to comply with the notice provision of the Mississippi Tort Claims Act. Miss. Code Ann. § 11-46-11(1)(2). Plaintiff readily admits his failure to comply with the notice provision of the Act. The Court has considered plaintiff's argument that the MTCA does not apply to actions sounding in contract; that argument is unavailing except with regard to actions for breach of an express

contract. City of Jackson v. Estate of Stewart, 908 So.2d 703 (Miss. 2005) (holding that claims for breach of implied contract fall within the aegis of the Mississippi Tort Claims Act). Plaintiff's alternative waiver argument is also without merit. Accordingly,

IT IS, THEREFORE, ORDERED AND ADJUDGED that defendant Chandler's Motion for Summary Judgment [48] is not well-taken and should be, and hereby is, DENIED. IT IS FURTHER ORDERED that defendant Panola County's Motion for Summary Judgment [49] should be, and hereby is, GRANTED IN PART and DENIED IN PART. IT IS FURTHER ORDERED that plaintiff's state law claim for retaliatory discharge in violation of public policy is hereby DISMISSED WITH PREJUDICE.

SO ORDERED, this the 27th day of June, 2007.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE